

As in *Cisco Systems, Inc.*, “the foreign policy implications here are not of sufficient concern to the United States government to trigger its involvement at this juncture.” *Id.* at 1235. The Individual Defendants, who were current or former U.S. citizens at all relevant times, served as private contractors for DarkMatter and CyberPoint, private corporations that are not agencies or instrumentalities of a foreign state. No claims have been brought against the U.A.E. or U.A.E. officials. Notably, the U.S. government initiated criminal and administrative proceedings against the Individual Defendants for their conduct as employees of DarkMatter and CyberPoint.¹ There is no basis to believe that the present civil proceedings would raise foreign policy implications when these criminal and administrative proceedings were allowed to go forward. Despite the public nature of the present suit, which was originally filed in December 2021, the U.S. Government has never sought to take any action regarding the case.

Nor do the Individual Defendants have any continued or renewed ties to the U.A.E. that would raise foreign policy implications. Pursuant to the DPA, the Individual Defendants agreed that they would continue to “never knowingly solicit employment from, or work for, in any capacity (i.e., as employees, consultants, teachers, contractors, or subcontractors) any U.A.E. government organization [...]” ECF 54-1 para. 17.

Thus, while Plaintiff acknowledges that the Court may, in the exercise of its discretion, seek the State Department’s views, Plaintiff believes that the Court can, and should, resolve the fully briefed motion to dismiss the ATS claims based on the current record.

¹ In September 2021, the Individual Defendants entered into a Deferred Prosecution Agreement (“DPA”) with the U.S. Department of Justice based on their conduct while employees at DarkMatter and CyberPoint. ECF 54-1. In July 2022, the Individual Defendants entered into a Consent Agreement with the U.S. Department of State arising out of their conduct while employees at DarkMatter and CyberPoint. ECF 54-2.

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